

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 8024 OF 2006

Shankar Sitaram Barge Petitioner

versus

Deepak Sahebrao Pawar Respondent.

Shri Sugandh Deshmukh for the petitioner
Shri R.A.Thorat & P.J.Thorat for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 07TH SEPTEMBER, 2007

P.C.;

1. The present petitioner is the original plaintiff who has filed a suit for perpetual injunction. In the said suit an applicaion for temporary injunction was filed. The trial court granted temporary injunction as prayed for and restrained the respondent herein till the decision of the suit from obstructing the plaintiff from using the suit property. The defendant challenged the said order by filing a Misc. Appeal before the District Court, Satara. The Ad-hoc District Judge Satara allowed the appeal vide order dated 22-9-2006 by holding that the plaintiff has failed to make out a primfacie case in his favour and has also observed that the plaintiff has failed to establish his possession over the suit land. So holding the interim order is set aside and the

application was dismissed and aggrieved thereby, the present writ petition was filed.

2. Perused the order. The order is operating for last one year. The order takes a possible view of the matter which does not call for any interference in exercise of writ jurisdiction. Hence petition deserves to be dismissed.

3. At this stage the learned counsel for the petitioner points out that the respondent is proposing to construct a petrol pump at the disputed suit sight. He submits that if the respondent constructs petrol pump the same should be at his cost and risk and the respondent should not claim any equity at the final disposal of the suit on the ground that he has invested money for the construction of petrol pump. The learned counsel for the respondent in all fairness submits that the respondent will not claim any equity for having invested money for constructing the petrol pump. The statement is accepted and writ petition is summarily dismissed.

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